IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

Bail Appl..No. 7438 of 2007(M)

CRIME NO.455/94 OF THE CHAVARA POLICE STATION

PETITIONER : ACCUSED:

MERCY CHANDRAN, W/O.LATE RAMACHANDRAN,
AGED 47 YEARS, THENGUMKAL HOUSE, KOTTAKKAKAM
WARD, KOLLAM.

BY ADV. SRI.BABU JOSEPH KURUVATHAZHA

RESPONDENTS: STATE:

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1. STATE OF KERALA REPRESENTED BY ITS
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, KOCHI-31.

2. THE S.I. OF POLICE,
CHAVARA POLICE STATION, KOLLAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 04/12/2007 ALONG WITH B.A.NO.7443 OF 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.Nos.7438 and 7443 of 2007

Dated this the 4th day of December, 2007

ORDER

The petitioner, a woman, apprehends arrest in two separate cases, where she faces indictment for offences punishable, inter alia, under Sections 420 and 452 I.P.C. Investigation is complete. Final reports have already been filed. Cognizance has been taken by the learned Magistrate. The petitioner has not entered appearance. The cases against the petitioner have been transferred to the list of Long Pending Cases. Coercive processes have been issued against the petitioner. The petitioner apprehends imminent arrest in execution of such processes. It is pointed out that the petitioner's husband was a co-accused along with the petitioner in both these cases, but he has expired after the commencement of the proceedings.

2. The learned counsel for the petitioner submits that the petitioner is innocent. Her absence earlier was not wilful or deliberate. She was very badly ill and that is the reason why she could not earlier appear before the learned Magistrate. The petitioner is willing to appear before the learned Magistrate and seek regular bail. But she apprehends that her application for regular bail may not be considered by the learned Magistrate on

merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 438 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which she could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

4. This bail application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-